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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,134	01/21/2005	Adair Rasmussen	LAMA124291	6156

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

BASICHAS, ALFRED

ART UNIT	PAPER NUMBER
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3749

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/523,134

Applicant(s)

RASMUSSEN, ADAIR

Examiner

Alfred Basichas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The amendment filed under Article 19 with the International Preliminary Examining Authority is not reflected in the file history of the instant application as being applicable thereto. Claims 1-7 as originally filed and as understood stand rejected. New claim 8 as understood is also rejected.

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 6 has been renumbered as claim 8.

It is also not clear what applicant intends for original claims 6 and 7, as they are missing from the amended claims section of the amendment.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no mention of “**constant cross section**” (recited in claim 1) or “**totally encapsulated by the body**” (recited in claims 1 and 8) in the specification as filed. The drawings cannot be relied upon to provide sufficient basis for enablement as there are only a single perspective of each of the two embodiments.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1 and 5-8, **as understood**, is rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen (US20010003038) in view of Lazare (FR2593271).

Rasmussen (US20010003038), which discloses substantially all of the claimed limitations including, among other things,

1. An apparatus (10) for igniting a gas flare, comprising: a housing (14); at least one flow passage (see at least figs. 1,2) extending through the housing; a body (12) made from a heat conducting material in communication with the at least one flow passage; means (64,76,92) for maintaining the body at a temperature above an ignition temperature of a combustible mixture of combustion air and combustible gases, such that the combustible mixture passing along the at least one flow passage is ignited immediately upon coming in contact with the body.

5. The apparatus as defined in claim 1, wherein a heating element (18, 126) embedded in the body (see at least figs. 1,2) serves as the means for maintaining the body at a temperature above the ignition temperature of the combustible mixture.

6. The apparatus as defined in claim 1, wherein the housing has an inlet (98), an outlet (102), and at least one baffle (108) positioned within the housing forms a plurality of interconnected flow passages (see at least figs. 1,2) which collectively define a flow path extending from the inlet to the outlet (see at least figs. 1,2).

7. The apparatus as defined in claim 6, wherein at least one fan (20,82,96) is provided to direct the combustible mixture from the inlet toward the outlet.

Rasmussen further discloses the flow passage arrangement recited in claim 8 (see at least figs. 1,2). Nevertheless, Rasmussen does not specifically recite the heating element embedded in the body and maintaining the body temperature higher than the ignition temperature of the gas. Lazare specifically recites heating elements embedded in a flare for combustion of the waste gas by maintaining a temperature higher than the ignition temperature of the gas. In this way, Lazare is able to ensure proper ignition of the waste gas. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Lazare's teaching into the invention disclosed by Rasmussen, so as to provide for proper ignition of waste gas.

7. Claims 2 and 4, **as understood**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen (US20010003038) in view of Lazare (FR2593271), which combination discloses substantially all of the claimed limitations. While

Rasmussen specifically recites the benefits of construction the invention utilizing ceramic (see at least paragraph 0025), Rasmussen does not specifically state which components. Rasmussen discloses that ceramic is beneficial for commercial use in high temperature environments. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate ceramic into the body and housing disclosed by Rasmussen in view of Lazare, so as to provide for commercial use.

8. Claim 3, ***as understood***, is rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen (US20010003038) in view of Lazare (FR2593271), which combination teaches substantially all of the claimed limitations, but does not specifically recite:

3. The apparatus as defined in claim 1, wherein the body (16, 124) is annular.

The claimed shape is an obvious modification based on design choice, and depends on spatial considerations. In view of the absence of criticality for this particular design, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate it into the invention disclosed by Rasmussen in view of Lazare, so as to provide for spatial considerations.

Response to Arguments

9. Applicants' arguments with regard to the rejected claims, filed November 22, 2006, have been considered, but are not deemed moot in view of the new grounds for rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

January 31, 2007



Alfred Basicas
Primary Examiner